



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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August 15, 2011

Mr. David Dell,
Regional HCP Coordinator
U.S. Fish and Wildlife Service,
1875 Century Boulevard, Suite 200,
Atlanta, GA 30345

Subject: EPA NEPA Comments on USFWS draft Supplemental Environmental Impact Statement (DSEIS): Incidental Take Permits for the Construction and Occupancy of the Beach Club West and Gulf Highlands Condominiums Residential/Recreational Condominium Projects, Baldwin County, Alabama; CEQ No. 20110209; ERP No. SFW-E99015-A1

Dear Mr. Dell:

Consistent with EPA's Clean Air Act (CAA) § 309 and National Environmental Policy Act (NEPA) § 102 (2)(C) responsibilities, EPA has reviewed the above-referenced DSEIS and has not identified any potential environmental impacts requiring substantive changes to the proposal. EPA is providing a lack of objections (LO) rating for this project.

Background

The purpose of the proposed Federal action is two-fold and concerns the issuance of: (1) ESA § 10(a)(1)(B) Incidental Take Permits for the incidental take of endangered the Alabama Beach Mouse and (2) CWA § 404 permits to place fill in jurisdictional wetlands associated with two private residential/recreational development (applicants) projects located on the Fort Morgan peninsula. This DSEIS was prepared to supplement the November 17, 2006 Final EIS.

Alternatives

The proposed development property extends for a total distance of 2,850 feet (ft) along the Gulf of Mexico coastline which includes habitat for the federally listed endangered Alabama Beach Mouse. Five alternatives, including no action, were considered. The revised preferred alternative (Alternative 3) consists of the construction of seven condominium towers with associated parking, amenities, a "lazy river" water/pool complex, and a commercial development inland from a line of scrub dunes known as "tertiary dunes". This action would permanently impact about 38.7 ac of scrub habitat including 1.36 ac of wetlands while permanently protecting about 135.2 ac of coastal dune habitat in a conservation easement.

Of the four 'action' alternatives, Alternatives 4 and 5 appear to impact the least number of wetlands: 0.4 acres versus the 1.36 acres impacted by the preferred action; the difference for any

of the development options is less than 1 acre. Additionally, the preferred action impacts the least and protects the most dune (beach mouse) habitat.

Because the preferred alternative represents acreage impacted the least and the greatest conserved, EPA also prefers it. Additionally because it expands by 35 acres, the proposed Conservation Area to be protected by a conservation easement, this will likely provide ecological benefit to existing and created wetlands. Moreover, the changes to the use of parking decks are additional improvements expected to minimize direct development and stormwater impacts. Furthermore, the positioning of the development inland of the tertiary dune system will likely provide ecological integrity and decrease cumulative impacts as climate change influences coastal dynamics such as the reach of storm surge and erosion.

Environmental Impacts

While the proposed development is to be relocated inland to avoid frontal and tertiary dune habitats, it will impact 1.36 acres of seasonally-inundated palustrine emergent wetlands considered jurisdictional by the U.S. Army Corps of Engineers and permanently impact 38.66 acres of coastal scrub and Alabama Beach Mouse habitat.

To mitigate for the anticipated wetland impacts, the applicants propose excavate three areas adjacent to existing wetlands, relocate topsoil from existing wetlands to be impacted, and allow revegetation to occur by natural recruitment. According to the DSEIS, mitigation is to be done concurrent with project construction and all wetland areas are to be placed under a conservation easement to be protected in perpetuity.

Recommendation

The Wetlands Mitigation Plan was not provided at the site, www.fws.gov/daphne, referenced in the DSEIS. EPA recommends the plan be made available at this site.

Thank you for the opportunity to review and provided comments. If you wish to discuss this matter further, please contact Beth Walls (404-562-8309 or walls.beth@epa.gov) of my staff. Enclosed are EPA's comments and a copy of EPA's EIS rating system criteria.

Sincerely,



Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management